

§ 229.301

17 CFR Ch. II (4–1–12 Edition)

(vii) Amendment, extension or termination of the deposit;

(viii) Rights of holders of receipts to inspect the transfer books of the depositary and the list of holders of receipts;

(ix) Restrictions upon the right to deposit or withdraw the underlying securities;

(x) Limitation upon the liability of the depositary.

(3) Describe all fees and charges which may be imposed directly or indirectly against the holder of the American Depositary Receipts, indicating the type of service, the amount of fee or charges and to whom paid.

Instructions to Item 202: 1. Wherever the title of securities is required to be stated, there shall be given such information as will indicate the type and general character of the securities, including the following:

A. In the case of shares, the par or stated value, if any; the rate of dividends, if fixed, and whether cumulative or non-cumulative; a brief indication of the preference, if any; and if convertible or redeemable, a statement to that effect;

B. In the case of debt, the rate of interest; the date of maturity or, if the issue matures serially, a brief indication of the serial maturities, such as “maturing serially from 1955 to 1960”; if the payment of principal or interest is contingent, an appropriate indication of such contingency; a brief indication of the priority of the issue; and, if convertible or callable, a statement to that effect; or

C. In the case of any other kind of security, appropriate information of comparable character.

2. If the registrant is a foreign registrant, include (to the extent not disclosed in the document pursuant to Item 201 of Regulation S-K (§229.201) or otherwise) in the description of the securities:

A. A brief description of any limitations on the right of nonresident or foreign owners to hold or vote such securities imposed by foreign law or by the charter or other constituent document of the registrant, or if no such limitations are applicable, so state;

B. A brief description of any governmental laws, decrees or regulations in the country in which the registrant is organized affecting the remittance of dividends, interest and other payments to nonresident holders of the securities being registered;

C. A brief outline of all taxes, including withholding provisions, to which United States security holders are subject under existing laws and regulations of the foreign country in which the registrant is organized; and

D. A brief description of pertinent provisions of any reciprocal tax treaty between such foreign country and the United States regarding withholding or, if there is no such treaty, so state.

3. Section 305(a)(2) of the Trust Indenture Act of 1939, 15 U.S.C. 77aaa *et seq.*, as amended (“Trust Indenture Act”), shall not be deemed to require the inclusion in a registration statement or in a prospectus of any information not required by this Item.

4. Where convertible securities or stock purchase warrants are being registered that are subject to redemption or call, the description of the conversion terms of the securities or material terms of the warrants shall disclose:

A. Whether the right to convert or purchase the securities will be forfeited unless it is exercised before the date specified in a notice of the redemption or call;

B. The expiration or termination date of the warrants;

C. The kinds, frequency and timing of notice of the redemption or call, including the cities or newspapers in which notice will be published (where the securities provide for a class of newspapers or group of cities in which the publication may be made at the discretion of the registrant, the registrant should describe such provision); and

D. In the case of bearer securities, that investors are responsible for making arrangements to prevent loss of the right to convert or purchase in the event of redemption or call, for example, by reading the newspapers in which the notice of redemption or call may be published.

5. The response to paragraph (f) shall include information with respect to fees and charges in connection with (A) the deposit or substitution of the underlying securities; (B) receipt and distribution of dividends; (C) the sale or exercise of rights; (D) the withdrawal of the underlying security; and (E) the transferring, splitting or grouping of receipts. Information with respect to the right to collect the fees and charges against dividends received and deposited securities shall be included in response to this item.

6. For asset-backed securities, see also Item 1113 of Regulation AB (§229.1113).

[47 FR 11401, Mar. 16, 1982, as amended at 47 FR 54768, Dec. 6, 1982; 51 FR 42056, Nov. 20, 1986; 70 FR 1593, Jan. 7, 2005]

Subpart 229.300—Financial Information

§ 229.301 (Item 301) Selected financial data.

Furnish in comparative columnar form the selected financial data for the registrant referred to below, for

(a) Each of the last five fiscal years of the registrant (or for the life of the registrant and its predecessors, if less), and

(b) Any additional fiscal years necessary to keep the information from being misleading.

(c) *Smaller reporting companies.* A registrant that qualifies as a smaller reporting company, as defined by § 229.10(f)(1), is not required to provide the information required by this Item.

Instructions to Item 301: 1. The purpose of the selected financial data shall be to supply in a convenient and readable format selected financial data which highlight certain significant trends in the registrant's financial condition and results of operations.

2. Subject to appropriate variation to conform to the nature of the registrant's business, the following items shall be included in the table of financial data: net sales or operating revenues; income (loss) from continuing operations; income (loss) from continuing operations per common share; total assets; long-term obligations and redeemable preferred stock (including long-term debt, capital leases, and redeemable preferred stock as defined in § 210.5-02.27(a) of Regulation S-X [17 CFR 210]; and cash dividends declared per common share. Registrants may include additional items which they believe would enhance an understanding of and would highlight other trends in their financial condition and results of operations.

Briefly describe, or cross-reference to a discussion thereof, factors such as accounting changes, business combinations or dispositions of business operations, that materially affect the comparability of the information reflected in selected financial data. Discussion of, or reference to, any material uncertainties should also be included where such matters might cause the data reflected herein not to be indicative of the registrant's future financial condition or results of operations.

3. All references to the registrant in the table of selected financial data and in this Item shall mean the registrant and its subsidiaries consolidated.

4. If interim period financial statements are included, or are required to be included, by Article 3 of Regulation S-X, registrants should consider whether any or all of the selected financial data need to be updated for such interim periods to reflect a material change in the trends indicated; where such updating information is necessary, registrants shall provide the information on a comparative basis unless not necessary to an understanding of such updating information.

5. A foreign private issuer shall disclose also the following information in all filings containing financial statements:

A. In the forepart of the document and as of the latest practicable date, the exchange rate into U.S. currency of the foreign currency in which the financial statements are denominated;

B. A history of exchange rates for the five most recent years and any subsequent interim period for which financial statements are presented setting forth the rates for period end, the average rates, and the range of high and low rates for each year; and

C. If equity securities are being registered, a five year summary of dividends per share stated in both the currency in which the financial statements are denominated and United States currency based on the exchange rates at each respective payment date.

6. A foreign private issuer shall present the selected financial data in the same currency as its financial statements. The issuer may present the selected financial data on the basis of the accounting principles used in its primary financial statements but in such case shall present this data also on the basis of any reconciliations of such data to United States generally accepted accounting principles and Regulation S-X made pursuant to Rule 4-01 of Regulation S-X (§ 210.4-01 of this chapter).

7. For purposes of this rule, the rate of exchange means the noon buying rate in New York City for cable transfers in foreign currencies as certified for customs purposes by the Federal Reserve Bank of New York. The average rate means the average of the exchange rates on the last day of each month during a year.

[47 FR 11401, Mar. 16, 1982, as amended at 47 FR 54768, Dec. 6, 1982; 52 FR 30919, Aug. 18, 1987; 73 FR 958, Jan. 4, 2008; 74 FR 18617, Apr. 23, 2009]

§ 229.302 (Item 302) Supplementary financial information.

(a) *Selected quarterly financial data.* Registrants specified in paragraph (a)(5) of this Item shall provide the information specified below.

(1) Disclosure shall be made of net sales, gross profit (net sales less costs and expenses associated directly with or allocated to products sold or services rendered), income (loss) before extraordinary items and cumulative effect of a change in accounting, per share data based upon such income (loss), net income (loss) and net income (loss) attributable to the registrant, for each full quarter within the two most recent fiscal years and any subsequent